

A-6572

Variance Request

Install fencing which would measure a maximum of six (6) feet in height between the front (Western Avenue) lot line and the twenty-five (25) foot front (Western Avenue) building restriction line, portions of which would be located twelve (12) inches from the alley, including:

- a) One segment of the fence, with a four (4) foot wide gate, located between the southeast corner of the residence and the Western Avenue front lot line;
- b) Another segment of the fence, with a four (4) foot wide gate, located alongside the northwest property line and located twelve (12) inches from the alley;
- c) A trash enclosure measuring three (3) feet in height, three (3) feet in depth and six (6) feet in length located at the northwest corner of the fence, commencing twelve (12) inches from the alley; and
- d) A segment of fence running from the northwest corner of the segment alongside of the alley, inside the north property line for a distance of thirty-four (34) feet. The fence would then turn at a right angle in a southeasterly direction for a distance of ten and two-tenths (10.2) feet, terminating at the house.

Mr. Michael F. Hoffman &
Ms. Mary P. Hoffman
116 Summerfield Road

Note: Segments a & b of the proposed fence would extend into the Western Avenue public right-of-way and would be connected by a third segment located in the Western Avenue right-of-way located parallel to, and seven (7) feet from, Western Avenue. Because these segments would not be located in the Village, a variance from the Village for these segments is not required. See proposed plan enclosed in the briefing materials.

September 8, 2014 Board Meeting

CHEVY CHASE VILLAGE
BOARD OF MANAGERS
SEPTEMBER 8, 2014 SPECIAL MEETING

STAFF INFORMATION REPORT

TO: BOARD OF MANAGERS

FROM: ELLEN SANDS, PERMITTING AND CODE ENFORCEMENT COORDINATOR

DATE: 8/25/2014

SUBJECT: HEARING OF CASE NO. A-6572 VARIANCE REQUEST
MR. MICHAEL HOFFMAN & MS. MARY P. HOFFMAN; 116 SUMMERFIELD ROAD
INSTALL FENCING WHICH WOULD MEASURE A MAXIMUM OF SIX (6) FEET IN HEIGHT BETWEEN THE FRONT (WESTERN AVENUE) LOT LINE AND THE TWENTY-FIVE (25) FOOT FRONT (WESTERN AVENUE) BUILDING RESTRICTION LINE, PORTIONS OF WHICH WOULD BE LOCATED TWELVE (12) INCHES FROM THE ALLEY, INCLUDING:

- A) ONE SEGMENT OF THE FENCE, WITH A FOUR (4) FOOT WIDE GATE, LOCATED BETWEEN THE SOUTHEAST CORNER OF THE RESIDENCE AND THE WESTERN AVENUE FRONT LOT LINE;
- B) ANOTHER SEGMENT OF THE FENCE, WITH A FOUR (4) FOOT WIDE GATE, LOCATED ALONGSIDE THE NORTHWEST PROPERTY LINE AND LOCATED TWELVE (12) INCHES FROM THE ALLEY;
- C) A TRASH ENCLOSURE MEASURING THREE (3) FEET IN HEIGHT, THREE (3) FEET IN DEPTH AND SIX (6) FEET IN LENGTH LOCATED AT THE NORTHWEST CORNER OF THE FENCE, COMMENCING TWELVE (12) INCHES FROM THE ALLEY; AND
- D) A SEGMENT OF FENCE RUNNING FROM THE NORTHWEST CORNER OF THE SEGMENT ALONGSIDE OF THE ALLEY, INSIDE THE NORTH PROPERTY LINE FOR A DISTANCE OF THIRTY-FOUR (34) FEET. THE FENCE WOULD THEN TURN AT A RIGHT ANGLE IN A SOUTHEASTERLY DIRECTION FOR A DISTANCE OF TEN AND TWO-TENTHS (10.2) FEET, TERMINATING AT THE HOUSE.

NOTICE REQUIREMENTS: Abutting Owners; Public Notice

APPLICABLE CHEVY CHASE BUILDING REGULATION:

The Chevy Chase Village Code Sec. 8-21 (c) states:

No person shall construct any fence or wall which exceeds forty-eight (48) inches in height at any location between the front lot line and the front building restriction line.

The Chevy Chase Village Code Sec. 8-21 (a) states:

No person shall install any tree trunk, hedge, shrubbery, fence, wall, lamp post or hand rail on private property within three (3) feet of a public sidewalk, or if there is no public sidewalk in the public right-of-way abutting the private property, within six (6) feet of the curb, or if there is no public sidewalk and no curb, within six (6) feet of the nearest edge of the street or alley.

APPLICABLE COVENANTS:

Not applicable; verification of compliance with the property's covenants is not required for variance requests authorized by Sections 8-21 [fences], 8-26 [driveways] or Chapter 25 [Public Rights-of-Way] of the Village Code.

FACTUAL AND BACKGROUND INFORMATION:

The Property is located on the southwest side of Summerfield Road at the corner of Western Avenue.



Figure 1: View of the Property from Summerfield Road. The yellow dashed line indicates the approximate location of the proposed fence.



Figure 2: View of the Property from Western Avenue. The yellow dashed line indicates the approximate location of the proposed fence.



Figure 3: View from Western Avenue. The yellow dashed line indicates the approximate location of the proposed fence.

Because this property is located on a corner lot it is considered to have front yards on both Summerfield Road and Western Avenue. The right-of-way abutting the Western Avenue property line is in the District of Columbia.

In 1989, the Applicants obtained approval for a proposed fence measuring six (6) feet in height in the Western Avenue front yard, but the fence was never installed and the variance expired. In that application, the fence was proposed to be installed entirely within the Applicants' private property. In this application, the Applicants propose to extend portions of the fence into the Washington D.C. public right-of-way. Permits for that part of the project fall under the jurisdiction of the District of Columbia.

Lt. DaSilva of the Village's police department assessed the proposed fence location regarding vehicular sight lines. His report follows this Staff Report.

The Applicants have obtained the applicable Montgomery County Fence Permit for the proposed fence.

To date there has been one email (included in the application materials) received from an abutting neighbor regarding the application; no other letters have been received either in support of or opposition to the request.

There are no tree protection concerns related to the expansion of the installation of the fencing.

Applicable Fees: Building Permit Application: \$30; Variance Application Fee: \$300.

RELEVANT PRIOR CASES¹

Approvals: There have been several variances granted for properties along Western Avenue for fences measuring greater than four (4) feet in height in the front yard. These properties typically have front doors on the side streets (Cedar Parkway, Broad Branch Road, Primrose Street and Summerfield Road) and the fences approved by the variances enclose what is effectively the rear or side yard. That is similar to this application; the front door of the residence is on Summerfield Road. The most direct precedent is Case 5559, in 2009, wherein Mr. & Mrs. Gregory Ossi of 209 Primrose Street were **granted** a variance to **construct** a fence measuring six (6) feet in height forward of the Western Avenue front building restriction line between the southern corner of an existing porch and the front lot line and, as well, along the northeast property line between the Western Avenue front lot line and the front building restriction line. As in this case, a portion of the proposed fencing in that case was proposed to be extend into the Washington D.C. public right-of-way and the applicants were to obtain the applicable permits from the District of Columbia. There are also many cases of variances being granted for installation of fences in excess of four (4) feet in height in forward of the twenty-five (25) foot front building restriction line when those properties abut major roadways (such as Western Avenue; Connecticut Avenue and Brookville Road) including: In May 2011 Ms. Kara Bombaugh and Mr. Thomas Southard were **granted** a variance to **construct** a wrought iron fence measuring six (6) feet in height in the front (Kirkside Drive) yard of the property forward of the front BRL; in May 2010 Mr. and Mrs. Antonio Adelfio were **granted** a variance to **construct** a wood stockade fence measuring a maximum of six (6) feet in height in the front (Brookville Road) yard of the property; in May 2010 Ms. Ashley Wiltshire of 26 Oxford Street was **granted** a variance to **construct** a wood board fence measuring six and one-half (6 ½) feet in height in the front (Brookville Road) yard of the property; in May 2010 Mr. and Mrs. Rob Nichols of East Melrose Street were **granted** a variance to **construct** a wood board fence measuring six and one-half (6 ½) feet in height in the front (Brookville Road) yard of the property; in December 2010 Mr. and Mrs. Greg Dixon of 5500 Montgomery Street were **granted** a variance to **construct** a fence measuring six and one-half (6 ½) feet in height in the front (Belmont Avenue extended) yard of the property; in May 2008 Mr. and Mrs. Michael Goldin of 6108 Western Avenue were **granted** a variance to **replace** a chain link fence with a fence consisting of six (6) foot masonry piers interspersed with a four-foot masonry wall topped by a two-foot iron fence along the front (Nevada Avenue) property line as well as a wood fence measuring six (6) feet in height between the front (Nevada Avenue) BRL and the front (Nevada Avenue) property line; in 2007 Mr. and Mrs. Paul Warren were **granted** a variance to **replace** a picket fence measuring forty-two (42) inches in height with a solid board wood fence measuring five (5) feet in height between the Broad Branch Road front lot line and the twenty-five (25) foot front BRL; in 2006 Mr. and Mrs. Robert Fossi were **granted** a variance to install a wrought iron fence measuring six and one-half (6 ½) feet in height in the front (Cedar Parkway) yard (that fence was never installed and subsequent residents has a similar request granted in 2011- see above); in 2005 Middleburg Associates was **granted** a variance to install a fence measuring six and one-half (6 ½) feet in height along the northwest property line between the Grove Street Extended front property line and the twenty-five (25) foot front BRL at 5406 Grove Street; in 2005 Mr. and Mrs. B. Francis Saul of 1 Quincy Street were **granted** a variance to install a fence measuring six (6) feet in height along the property line abutting Quincy Street; in 2004 Mr. and Mrs. Peter James of 208 Primrose Street were **granted** a variance to replace a four (4) foot chain link fence with a solid board fence measuring six (6) feet in height along the southwest Western Avenue) property line; in 2002 Mr. and Mrs. Ronald Shapiro of 5620 Grove Street were **granted** a variance to **replace** a five (5) foot fence with a fence measuring six and one-half (6 ½) feet in height between the twenty-five (25) foot front BRL and the front (Oliver Street) property line; in 2001 Mr. and Mrs. William Shearer of 113 Summerfield Road were **granted** a variance to **replace a hedge with a fence** measuring six (6) feet in height between the front (Western Avenue) lot line and the front BRL; in June 1998 Mr. and Mrs. Thomas Carroll of 11 East Irving Street were **granted** a variance to **construct** a fence measuring five and one-half (5 ½) feet in height in the front (Brookville Road) yard

¹ The following precedents are for new construction or cases where an existing fence was increased in height. Cases where non-compliant fences were replaced in-kind are not included and, per Sec. 8-21(f), these types of replacements do not require Board approval.

of the property; in 1996 Ms. Muriel Threfall of 1 East Melrose Street was **granted** a variance to **construct** a wood fence measuring six (6) feet in height in the front (Connecticut Avenue) yard. In 1996 Mr. and Mrs. Daniel Korengold of 101 East Melrose Street were **granted** a variance to construct a fence measuring six (6) feet in height in the front (Brookville Road) yard. In 1996 Mr. and Mrs. Robert Martuza of 111 Newlands Street were **granted** a variance to **construct** a wood height measuring six (6) feet in height in the front (Broad Branch Road) yard; in 1996 Mr. and Mrs. Thomas Lamia were **granted** a variance to **construct** a fence measuring six and one-half (6 ½) feet in height in the front (Brookville Road) yard of the property...

Denials: Of the requests for variances for fences in excess of the allowable four (4) foot height in front yards applications that were **denied** tended to be properties that were not located on busy streets and/or were located mid-block. For instance, in 1999 Mr. and Mrs. Christopher Knopes of 5804 Cedar Parkway were **denied** a variance to **construct** a fence measuring five and one-half (5 ½) feet in height in the front (Hesketh) Street yard. In that case, although the property was on a corner, Hesketh Street is considered a smaller quieter street. In 2000 Ms. Catherine Cotter and Mr. John Finneran of 16 Magnolia Parkway were **denied** a variance to **install** a wood picket fence measuring four and one-half (4 ½) feet in height in the front (West Irving Street) yard; in 2003 Mr. Clarke Camper of 6 Primrose Street **withdrew** a request to install a fence measuring six (6) feet in height along the west (side) property line and extending eleven (11) feet forward of the front twenty-five (25) foot BRL.

Regarding the variance requested due to the proximity of the proposed fence to the paved surface, this regulation is relatively new and there are no direct precedents. The closest would be that in April 2011 Dr. and Mrs. Larry Heilman were **granted** a variance to **replace** a six (6) foot stockade fence that was located twenty-one (21) inches from the Cedar Parkway sidewalk.

FINDINGS REQUIRED:

1. The proposed variance is required because special conditions exist whereby the enforcement of the requirements of the Village Building Code would result in an unwarranted hardship and injustice to the owner.
2. The proposed variance will most nearly accomplish the intent and purpose of the requirements of the Village Building Code; and
3. Except for variances from the requirements of Sections 8-21 [fences], 8-26 [driveways] or Chapter 25 [public rights-of-way] of the Village Regulations, the structure authorized by the proposed variance would not violate any covenant applicable to the property.

Draft Motion

I move to APPROVE/DENY the variance request in Case A-6572 on the basis that the evidence presented, including the Staff Report and Case Synopsis, demonstrates that the applicable requirements for approval of the variance HAVE/HAVE NOT been met. Staff is directed to draft a decision based on this evidence, including findings of fact and conclusions, APPROVING/DENYING the variance request.



Chevy Chase Village Police Department

Memo

To: Ellen Sands - Permitting and Code Enforcement Coordinator

From: Lt. Adventino Dasilva

A handwritten signature in black ink, appearing to be "AD", written over the printed name.

Date: August 28, 2014

Re: 116 Summerfield Fence

My observations are that the proposed fence would not create any new sightline concerns. There are existing sightline issues at both Summerfield Road and the driveway, but the fence as proposed would likely not exacerbate these.

At the Summerfield Road intersection, vehicles exiting Summerfield to Western Avenue already have to pull up past the STOP sign in order to have a clear view of oncoming traffic, and the fence as proposed would not worsen that condition.

At the driveway, vehicles exiting to Western Avenue have to pull up past the point of the proposed fence in order to have a clear view of Western Avenue because of the tree on the west side of the alley, at 6216 Western Avenue. The proposed fence therefore would not increase the amount that vehicle have to pull out in order to safely turn onto Western Avenue.

Therefore, while there are existing sightline issues at Summerfield Road and the private driveway, the construction of the fence as proposed would not worsen the conditions.

**CHEVY CHASE VILLAGE
NOTICE OF PUBLIC HEARING**

Please take notice that the Chevy Chase Village Board of Managers will hold a public hearing on the 8th day of September, 2014 at 7:30 p.m. The hearing will be held at the Chevy Chase Village Hall at 5906 Connecticut Avenue in Chevy Chase, Maryland.

**APPEAL NUMBER A-6572
MR. MICHAEL F. HOFFMAN & MS. MARY P. HOFFMAN
116 SUMMERFIELD ROAD
CHEVY CHASE, MARYLAND 20815**

The applicants seek a variance from the Board of Managers pursuant to Section 8-9 of the Chevy Chase Village Building Code to install fencing which would measure a maximum of six (6) feet in height between the front (Western Avenue) lot line and the twenty-five (25) foot front (Western Avenue) building restriction line¹, portions of which would be located twelve (12) inches from the alley, including:

- a) One segment of the fence, with a four (4) foot wide gate, located between the southeast corner of the residence and the Western Avenue front lot line;
- b) Another segment of the fence, with a four (4) foot wide gate, located alongside the northwest property line and located twelve (12) inches from the alley;
- c) A trash enclosure measuring three (3) feet in height, three (3) feet in depth and six (6) feet in length located at the northwest corner of the fence, commencing twelve (12) inches from the alley; and
- d) A segment of fence running from the northwest corner of the segment alongside of the alley, inside the north property line for a distance of thirty-four (34) feet. The fence would then turn at a right angle in a southeasterly direction for a distance of ten and two-tenths (10.2) feet, terminating at the house.

The Chevy Chase Village Code Sec. 8-21 (e) states:

No person shall construct any fence or wall which exceeds forty-eight (48) inches in height at any location between the front lot line and the front building restriction line.

The Chevy Chase Village Code Sec. 8-21 (a) states:

No person shall install any tree trunk, hedge, shrubbery, fence, wall, lamp post or hand rail on private property within three (3) feet of a public sidewalk, or if there is no public sidewalk in the public right-of-way abutting the private property, within six (6) feet of the curb, or if there is no public sidewalk and no curb, within six (6) feet of the nearest edge of the street or alley.

Additional information regarding this appeal may be obtained at the Chevy Chase Village Office between the hours of 9:00 a.m. and 5:00 p.m. Monday through Friday, may be viewed on the Village website at www.chevychasevillagemd.gov or you may contact the office for this information to be mailed to you.

This notice was mailed (and emailed where possible) and to abutting and confronting property owners on the 21st day of August, 2014.

**Chevy Chase Village Office
5906 Connecticut Avenue
Chevy Chase, Maryland 20815
301-654-7300**

¹ Segments a & b of the proposed fence would extend into the Western Avenue public right-of-way and would be connected by a third segment located in the Western Avenue right-of-way located parallel to, and seven (7) feet from, Western Avenue. Because these segments would not be located in the Village, a variance from the Village for these segments is not required. See proposed plan enclosed in the briefing materials.

**Chevy Chase Village
Building Permit Application
for Fences & Walls**

Permit No: _____

Property Address:

116 Summerfield Road

Resident Name:

Michael Hoffman

Daytime telephone:

301-717-7650

Cell phone:

301-717-7650

After-hours telephone:

none

E-mail:

Primary Contact for Project:

☒ Resident

☐ Architect

☐ Project Manager

☐ Contractor*

*MHIC/MD Contractor's License No. (required):

Primary Contact Information:

Name:

Daytime telephone:

After-hours telephone:

E-mail:

Description of Fence or Wall Project:

6' clear cedar fence

Check appropriate box:

Fence or wall to be constructed is: (1) new, (2) an enlargement of an existing fence or wall, or (3) replacing an existing fence or wall with one of a different kind.

Fence or wall to be constructed is replacing an existing fence or wall with the same kind and in the same location.

Parking Compliance:

Is adequate on-site parking available for the construction crews?

☒ Yes

☐ No

If no, please attach a parking plan which minimizes inconvenience to neighboring residents, and indicate if the property is in a permit parking area.

Will road closings be required due to deliveries, equipment or other reasons?

☐ Yes

☒ No

To be completed by Village staff:

Is this property within the historic district?

☐ Yes

☒ No

Staff Initials: GH

Date application filed with Village: 6/6/14

Date permit issued: _____

Expiration date: _____

Guidelines for Building, Replacing and Maintaining Fences and Walls

Sec. 8-22 of the Village Code regulates fences and walls. To repair or maintain an existing fence or wall, the Village does not require a building permit. To install or replace a fence or wall, however, residents will need a Village building permit. (A building permit may also be required from Montgomery County, including the Historic Preservation Commission if the property is within the Historic District). Village Code allows fences and walls to be installed on a resident's property lines, inside the property lines on private property, and sometimes in the public right-of-way.

When placed on the property lines or on private property, the Village Code regulates fence and wall heights in two ways:

1. Fences and walls installed on private property anywhere between the property line and the front building restriction line may not exceed four feet (4') in height.
2. Fences and walls installed to the rear of the front building restriction line (that is, along the side and rear property lines or in the side and rear yards) may not exceed six and one half feet (6½') in height.

When measuring the height of a fence or wall, the Village Code provides that the "measurement shall be made from the surface of the ground of the lower yard next to the fence or wall" **to the highest point of the fence or wall** (such as the top of the posts, caps, decorative lattice, finials, etc.). For example, if a fence post is 6½ feet high, then a cap on that post would exceed the height limit.

Walls can sometimes change the flow of water on a property. In such cases, residents or contractors will need to include a drainage plan with the building application.

When installing a fence or wall in the Village's public right-of-way, in addition to obtaining a Village Building Permit, residents must sign a **License to Use the Public Right-of-Way**, which will be recorded with your deed (please contact the Village office for more information). Fences and walls installed in the Village's rights-of-way may not exceed four feet (4') in height. Fences in the Village's rights-of-way must be installed at least two feet (2') from the public sidewalk, or where there is no sidewalk, at least five feet (5') from the curb or nearest edge of the paved roadway. Walls in the Village's public rights-of-way must be installed at least three feet (3') from the public sidewalk, or where there is no sidewalk, six feet (6') from the curb or nearest edge of the paved roadway. The Village office will not issue permits for any fences or walls that block necessary sight lines at intersections or otherwise create a dangerous condition.

For all Village Code requirements, please see to Sections 8-4, 8-22, and 8-31.

**Building Permit Application for Fences and/or Walls:
Filing Requirements**

Application will not be reviewed until the application is complete

- " Copy of stamped drawings approved by Montgomery County Department of Permitting Services (DPS) and the Historic Preservation Commission (HPC), if required. Every page of drawings must be clearly stamped.
- " This application form, signed by resident.
- " Boundary Survey
- " Site Plan (see: Village Site Plan Checklist to ensure completeness)
- " Building plans and specifications
- " Tree Preservation Plan requested of Village arborist (see: Village Tree Inspection Request form). All required tree protections must be fully installed before any work begins.
- " Filing Fee (due at time of application). Fee schedule is listed in Chapter 6 of the Village Code.
- " Damage deposit or performance bond (due when permit is issued). Amount will be set by Village Manager.

Once this permit application is complete, the Village Manager will review the application and accompanying documents and, under most circumstances, act on the application within 5 to 10 working days.

If the Montgomery County permit is suspended, revoked or lapsed, the Village permit is automatically suspended, revoked or lapsed.

No signs advertising any service provider may be posted on the work site.

I hereby certify that I have the authority to make the foregoing application, that the application is correct, that I have read and understood all requirements and that the construction will conform to the regulations of the Montgomery County Zoning Code, the Village Code including Urban Forest code, and any covenants and easements on the subject property.

Applicant's Signature: Micheel Hoffman **Date:** 6/6/2014

For Use By Village Manager	Application approved with the following conditions:

DENIED

JUN 06 2014

Chevy Chase
Village Manager

Application denied for the following reasons:

Handwritten: ~~Handwritten:~~ The proposed fence exceeds the maximum height allowed forward of the 25' BRL.

Filing Fees (due when application submitted)	Checks Payable to: Chevy Chase Village 5906 Connecticut Ave. Chevy Chase, MD 20815
Permit Application Fee: <input checked="" type="checkbox"/> \$30.00 (if fence or wall is new, enlarged or replaced with different kind) <input type="checkbox"/> \$15.00 (if fence or wall is being replaced in-kind and in the same location) <input type="checkbox"/> \$50.00 (if construction is in the Public Right-of-way)	
Tree Preservation Plan Fee: <input type="checkbox"/> \$250.00 <input checked="" type="checkbox"/> Not required for this project	
TOTAL Fees: <i>\$30.00</i>	
Damage Deposit/Performance Bond <input type="checkbox"/> \$ _____ <input type="checkbox"/> Waived by Village Manager	Date: <i>6/6/14</i> Staff Signature: <i>[Signature]</i> Date: Staff Signature:


For Village Staff use:

Field file for inspections by Code Enforcement Officer has been created: ☐ Yes (Date: _____)

MAILING LIST FOR APPEAL A-6572

MR. MICHAEL F. HOFFMAN & MS. MARY P. HOFFMAN
116 SUMMERFIELD ROAD
CHEVY CHASE, MD 20815

Adjoining and confronting property owners	
Ms. J.J. Nelson Or Current Resident 114 Summerfield Road Chevy Chase, MD 20815	Mr. & Mrs. Alan Reider Or Current Resident 112 Summerfield Road Chevy Chase, MD 20815
Mr. & Mrs. Anthony J. Cullinane Or Current Resident 111 Summerfield Road Chevy Chase, MD 20815	Mr. & Mrs. W. Alan Shearer Or Current Resident 113 Summerfield Road Chevy Chase, MD 20815
Mr. & Mrs. Marvin A. Address Or Current Resident 6216 Western Avenue Chevy Chase, MD 20815	


I hereby certify that a public notice was mailed (and emailed where possible) to the
aforementioned property owners on the 21st day of August, 2014.

Ellen Sands
Permitting and Code Enforcement Coordinator
Chevy Chase Village
5906 Connecticut Avenue
Chevy Chase, MD 20815



CHEVY CHASE VILLAGE

ESTABLISHED 1890

August 21, 2014

Mr. & Mrs. Michael Hoffman
116 Summerfield Road
Chevy Chase, MD 20815

Dear Mr. & Mrs. Hoffman:

Please note that your request for a variance to install a fence at your property is scheduled before the Board of Managers on Monday, September 8, 2014 at 7:30 p.m.

Either you or another representative must be in attendance to present your case. At that time, additional documents may be introduced and testimony can be provided in support of the request.

For your convenience, enclosed please find copies of the Public Hearing Notice and mailing list. Please contact the Village office in advance if you are unable to attend.

Sincerely,



Ellen Sands
Permitting and Code Enforcement
Chevy Chase Village

Enclosures

CHEVY CHASE VILLAGE
5906 Connecticut Avenue
Chevy Chase, Maryland 20815
Phone (301) 654-7300
Fax (301) 907-9721
ccv@montgomerycountymd.gov
www.chevychasevillagemd.gov

BOARD OF MANAGERS

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ELISSA A. LEONARD
Board Member

VILLAGE MANAGER
SHANA R. DAVIS-COOK

LEGAL COUNSEL
SUELLEN M. FERGUSON

Chevy Chase Village

Application for a Variance

A variance is permission granted to a landowner to depart from the specific requirements of the Village zoning ordinance and allows a landowner to use land differently than specified in the ordinance. The variance is a written authorization from the Board of Managers permitting construction in a manner not otherwise allowed by the Village Code.

Subject Property: 116 Summerfield Road	
Describe the Proposed Project: Construct a 6' privacy fence with 2 gates from front corner of house out to 7' from western Ave curb, along western Ave to 12" from alley/driveway, along alley/driveway to align with neighbor's 6' privacy fence; and same 6' fence to replace existing chain link fence which would then join back to house.	
Applicant Name(s) (List all property owners): Michael F & Mary-Preston Hoffman	
Daytime telephone: 301-717-7650	Cell: 301-717-7650
E-mail: pressieh@comcast.net	
Address (if different from property address):	
For Village staff use:	
Date this form received: 7/31/14	Variance No: A-6572

Filing Requirements:

Application will not be accepted or reviewed until the application is complete

- ☐ Completed Chevy Chase Village Application for a Variance (this form)
- ☐ Completed Chevy Chase Village Building Permit Application
- ☐ A boundary survey or plat diagram with a margin of error of one tenth of a foot or less showing all existing structures, projections and impervious surfaces.
- ☐ Surveys, plats, engineering reports, construction plans/specifications or other accurate drawings showing boundaries, dimensions, and area of the property, as well as the location and dimensions of all structures/fences/walls/etc., existing and proposed to be erected, and the distances of such structures/fences/walls/etc., from the nearest property lines. These drawings shall incorporate and display reference dimensions from the boundary survey or plat diagram required above.
- ☐ Copy of Covenants applicable to the property except for variances from Sections 8-22, 8-26 or Article IV of Chapter 8 of the Chevy Chase Village Code.
- ☐ Variance fee (See fee schedule listed in Chapter 6 of the Village Code).

Affidavit

I hereby certify that I have the authority to submit the foregoing application, that all owners of the property have signed below, that I have read and understand all requirements and that I or an authorized representative will appear at the scheduled public hearing in this matter. I hereby authorize the Village Manager, or the Manager's designee, and/or the Board of Managers to enter onto the subject property for the purposes of assessing the site in relation to this variance request. I hereby declare and affirm, under penalty of perjury, that all matters and facts set forth in the foregoing application are true and correct to the best of my knowledge, information and belief.

Applicant's Signature: Michael Hoffman

Date: 7/28/2014

Applicant's Signature: Mary-Preston Hoffman

Date: 7/27/14

Describe the basis for the variance request (attach additional pages as needed).

Describe the special conditions of the property (e.g., odd shape, small size, sloping topography, abuts state highway, etc.) and how the property compares to other properties in the Village:

We are located at the corner of Summerfield Rd and Western Ave. There are a number of properties within close proximity that have both 6' fences and fences within 12" of a driveway/alley.

Describe how enforcement of the building regulations would result in an unwarranted hardship and injustice because of the special condition(s) described above (i.e., describe (i) the unwarranted hardship and injustice that you claim exists and (ii) how the special conditions cause that unwarranted hardship and injustice):

A 6' fence is requested for privacy and noise reduction from Western Ave which is a noisy and busy street much of the day. We have a dog and a grandchild who ~~could~~ we would like to protect from the street traffic/strangers. We are also trying to deter deer and foxes from our yard and flowers and plants. We would lose a large portion of our rear yard if the fence were to be

Describe how the proposed variance most nearly accomplishes the intent and purpose of the requirements of Chapter 8 of the Chevy Chase Village Code, entitled *Buildings and Building Regulations*:

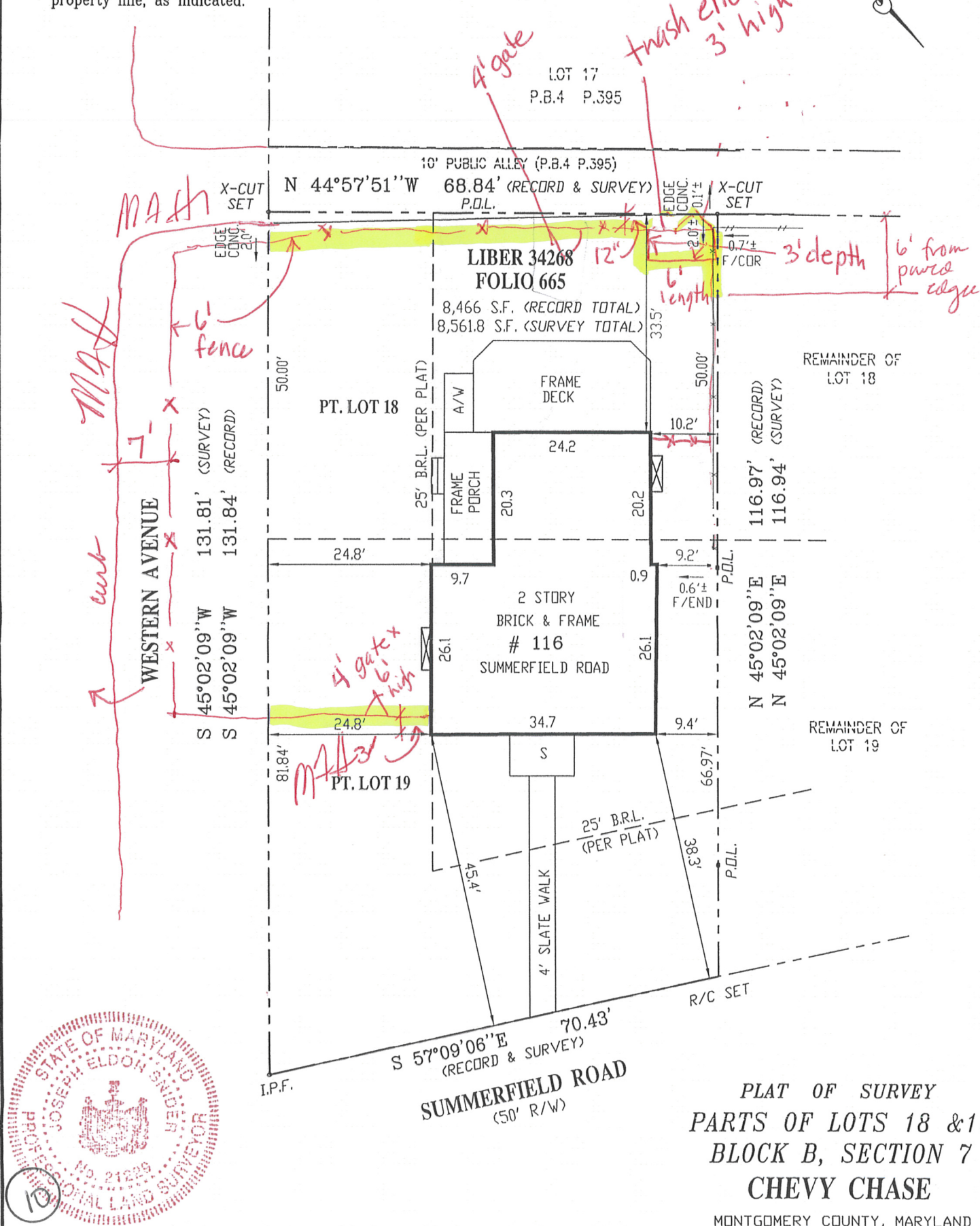
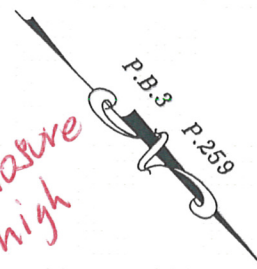
We previously received a permit for a fence with similar parameters but it was decided not to install at that time.

In exercising its powers in connection with a variance request, the Chevy Chase Village Board of Managers may reverse or affirm, wholly or partly, or may modify the requirement, decision or determination as it deems appropriate.

constructed 6' from the paved driveway.

Variance Filing Fee <i>Per Village Code Sec. 6-2(a)(24):</i> <input checked="" type="checkbox"/> \$300.00 for new construction. <input type="checkbox"/> \$150.00 for replacing existing non-conformities. <input type="checkbox"/> \$300.00 for fences, walls, play equipment, trees, hedges, shrubbery in the public right-of-way. <input type="checkbox"/> Other: \$ _____ Fee Paid: <u>\$300.00</u>	Checks Payable To: Chevy Chase Village 5906 Connecticut Ave. Chevy Chase, MD 20815 Date Paid: <u>7/30/14</u> Staff Signature: <u>[Signature]</u>
	Approved to Issue Building Permit per Board Decision Signed by the Board Secretary on: Date: _____ Signature: _____ Village Manager

- 1) All property corners have been recovered or set and verified per field survey performed: 07-15-2011.
- 2) IPF indicates iron pipe found.
R/C Set indicates rebar & cap set.
P.O.L. Indicates hub or nail set along property line, as indicated.





DEPARTMENT OF PERMITTING SERVICES

Isiah Leggett
County Executive

Diane R Schwartz Jones
Director

FENCE PERMIT

Issue Date: 06/03/2014

Permit No: 675211
Expires: 06/04/2015
X Ref.:
Rev. No:
ID: 1231655

THIS IS TO CERTIFY THAT: JORGE E GUTIERREZ ACCOKEEK FENCE COMPANY INC
5410 VINE ST
ALEXANDRIA, VA 22310

HAS PERMISSION TO: CONSTRUCT FENCE
6.00 Feet 0.00 Inches in Height
Property Line: N Owner's Land: Y Right of Way: N

PERMIT CONDITIONS: FENCE

PREMISE ADDRESS: 116 SUMMERFIELD RD
CHEVY CHASE, MD 20815-3317

LOT - BLOCK: P18 - B

ZONE:

ELECTION DISTRICT: 07

BOND NO.:

BOND TYPE:

PS NUMBER:

PERMIT FEE: \$ 49.35

SUBDIVISION: CHEVY CHASE SEC 6/7

**MUST BE KEPT
AT JOB SITE**

Diane R. Schwartz Jones

Director, Department of Permitting Services



Previous Appeal Materials:
Variance Decision and
Approved Fence Location Plan

BOARD OF MANAGERS For Chevy Chase, Md.

Subject:

BUILDING PERMIT APPEAL #A-2070
of
Mr. & Mrs. Michael F. Hoffman
116 Summerfield Road
Chevy Chase, Maryland 20815

Notice is hereby given that a public hearing will be held by the Chevy Chase Village Board of Managers at 5906 Connecticut Avenue Chevy Chase, Maryland on July 26, 1988 at 8:00 pm on Building Permit Appeal #A-2070 pursuant to Section 8-30 (b) of the Chevy Chase Village Building Code.

The appellants propose to construct a five foot (5') cedar board-on-board fence with a one foot (1') crisscross lattice on top. The proposed construction would commence at the northeast corner of the residence, continue in an easterly direction for a distance of twenty-five feet (25') to the property line along Western Avenue, then in a southwesterly direction along the front property line of Western Avenue for a distance of eighty-two feet and five inches (82'5") and then turn in a west, northwest direction along the property line of the public alley for a distance of twenty-five feet (25').

Section 8-40 (d) states:

"No wall or fence shall be permitted to exceed forty-eight inches (48") in height at any location between the front lot line and the front building restriction line".

This notice mailed on this 5th day of July, 1988 to:

Mr. & Mrs. Michael Hoffman, 116 Summerfield Rd.
Mr. J. William Nelson, 114 Summerfield Rd.
Catherine Burke/Julia O'Donnell, 113 Summerfield Rd.
Mr. & Mrs. Marvin Address, 6216 Western Ave.
Mr. William Oliveri, 6318 Western Ave.

CASE NO. A-2070

Appeal of Mr. and Mrs. Michael F. Hoffman

(Hearing held July 26, 1988)

OPINION OF THE BOARD OF MANAGERS

This proceeding is an appeal pursuant to Section 8-30 of the Chevy Chase Village Code for a variance from the requirements Section 8-40 (d) of the Village Code. Section 8-40 (d) states: "No walls or fences shall be permitted to exceed forty-eight (48) inches in height in any location between the front lot line and the front building restriction line". The applicants propose to construct a five (5') foot cedar board-on-board fence with a one (1') foot crisscross lattice on top. The proposed construction would commence at the northeast corner of the residence, continue in an easterly direction for a distance of twenty-five (25') feet to the property line along Western Avenue, then in a southwesterly direction along the front property line of Western Avenue for a distance of eighty-two feet and five inches (82'5") and then turn in a west, northwest direction along the property line of the public alley for a distance of twenty-five (25') feet.

The subject property is known as Parts of Lots 18 and 19, Block B, in the subdivision known as Section 7, Chevy Chase, also known as 116 Summerfield Road, Chevy Chase, Maryland 20815 in the R-60 zone. Notice of the hearing was mailed to all abutting property owners, posted at the Village Hall and posted on the property on July 5, 1988.

Mr. Hoffman testified that the fence is intended to provide privacy for his family. He noted that the fence is set back from the Western Avenue roadway and, as a result, there should be no visibility problems along Western Avenue. He indicated that the fence for which the variance is sought is on the "side" of the house as the house faces Summerfield Road.

Mrs. Joanne Nelson of 114 Summerfield Road, the nearest neighbor to the northwest, inquired of Mr. Hoffman as to the location of gates and what he meant by "board-on-board". Mr. Hoffman answered that there will be spaces between the boards so that air will pass through the fence. Mrs. Nelson asked that the fence be set back from the joint property line and stated that she does not object to the fence if there are not more than two (2) dogs at the Hoffmans' house.

Mr. Hoffman, in answer to a question posed by Mrs. Baptiste, stated that he does not intend to operate a dog breeding business at the property. Mr. Hoffman also stated that he will locate fence posts to avoid damaging tree roots and, if any vegetation is destroyed by the fence, he agreed to replace the same. He also agreed not to operate a dog breeding activity at the subject property.

No other testimony in favor or opposition was presented.

Based upon the testimony and evidence of record, the Board finds that, subject to the conditions in the following paragraph, the variance requested would not violate the Village covenants; the variance will not be contrary to the public

interest; that owing to special conditions, the enforcement of the building regulations would result in unwarranted hardship and injustice; that the variance granted will most nearly accomplish the purpose and intent of the Chevy Chase Village Building Regulations.

Accordingly, the requested variance from the requirement that "no walls or fences shall be permitted to exceed forty-eight (48) inches in height in any location between the front lot line and the front building restriction line", is granted, provided however, that:

- (1) The construction shall be completed according to plans which are entered into the record of these proceedings,
- (2) The fenceposts will be located to avoid damaging any trees,
- (3) That if any vegetation is destroyed by the construction of the fence, the applicants will replace such destroyed vegetation,
- (4) The fence shall not be used in connection with any dog breeding activity,
- (5) The construction shall be completed on or before the 25th day of July, 1989.

The Chevy Chase Village Board of Managers hereby adopts the following Resolution:

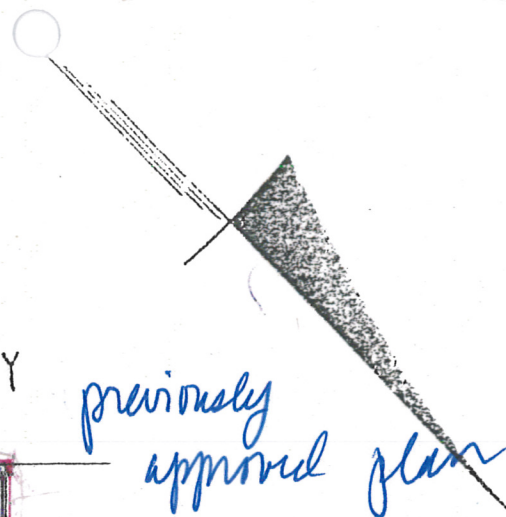
BE IT RESOLVED by the Board of Managers of Chevy Chase Village that the Opinion stated above be adopted as the decision required by Section 8-32 (c) of the Chevy Chase Village Code, and the Village Building Inspector and/or his designee be and he is hereby authorized and directed to issue a building permit consistent with this Opinion.

The foregoing Resolution was adopted by the Chevy Chase Village Board of Managers with the following members voting in favor: David Winstead, Burt Schorr, Ephraim Jacobs, and Patricia S. Baptiste. Margot W. Anderson, Walter Sheble and John D. Talbott were not present for the hearing and did not participate in the discussion and decision in this matter.

I DO HEREBY CERTIFY, that the foregoing Opinion and Resolution were approved and adopted by the Chevy Chase Village Board of Managers on this 8th day of August, 1988.


Margot W. Anderson, Asst. Sec.
Board of Managers

HOUSE LOCATION
PARTS OF LOTS 18 & 19 BLOCK B
SECTION NO. 7
CHEVY CHASE
MONTGOMERY COUNTY, MD.



previously approved plan

Part of Lot 18
Block B
3,442±

approx 30' from property to marker to Western Avenue

18' PUBLIC ALLEY

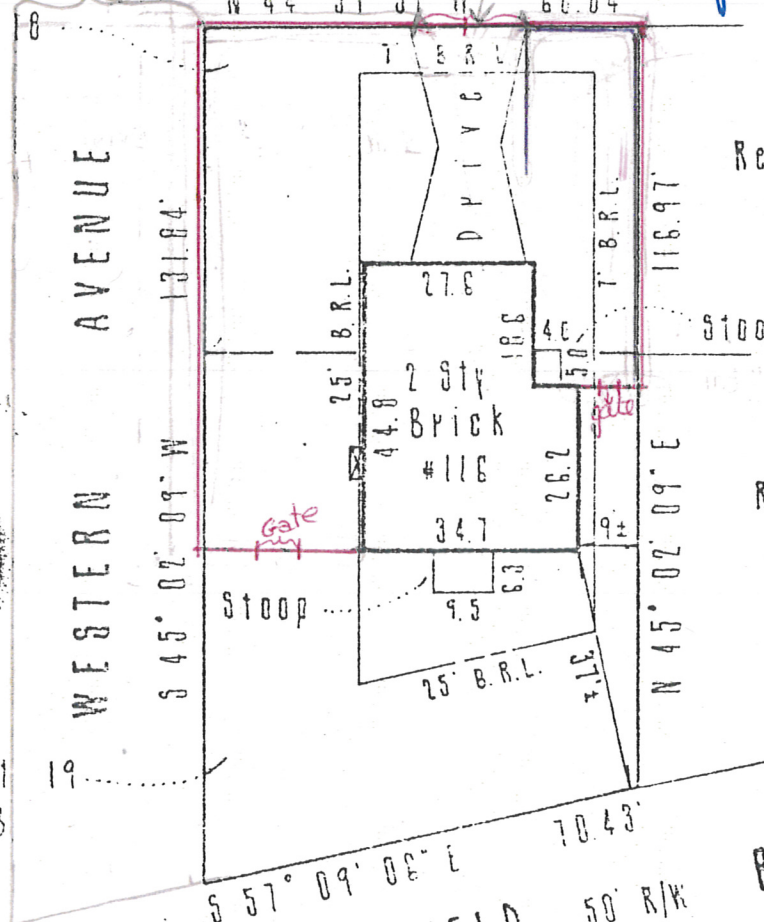
N 44° 51' 51" W 68.84'

Remainder of Lot 18

Remainder of Lot 19



Part of Lot 19
Block B
5,122±



A-6572
Variance Request

Email from abutting neighbor regarding the request

CCV Permitting

From: joanne5710@aol.net
Sent: Friday, August 8, 2014 3:42 PM
To: CCV Permitting
Subject: Re: RE: 114 Summerfield Rd

Hi Ellen,

Thanks for all your help. I cannot send/receive attachments at the moment so I have copied the text below. Sorry for the inconvenience. Have a great holiday weekend!

Regards,

Joanne Nelson

PS Please confirm receipt. Thx.

114 Summerfield Road

Chevy Chase MD20815

August 28, 2014

Chevy Chase Board of Managers

5906 Connecticut Avenue

Chevy Chase, Maryland, 20815

Dear Chevy Chase Board of Managers:

I am writing regarding appeal notice # A-6572, application for a proposed fence at 116 Summerfield Road, which is next door to me on Summerfield Rd. I have no major objections to this fence based on the information I have been provided namely:

1. That the fence will be set back from Western Ave. at least six feet from the curb. When the old trees were growing along the street, and even into it, exiting the alley behind my house was extremely hazardous. I use the alley nearly every day when I'm home, and I had to pull far out into Western in order to see. I hope the new fence will remedy this situation.

2. That the new trees that have been planted will be INSIDE the fence to be constructed and nothing but low lying landscaping will be located on the DC right-of-way. Again, my concern is with my ability to safely exit the alley, and particularly when there is ice and snow on the surface.

3. That the fence will line up with my fence along the alley, that is, be the same distance from the concrete alley to the fence as is mine.

4. That the new enclosed area will not be used for any commercial dog kenneling or breeding or accommodating large numbers of dogs as it had been in the past. This created extremely undesirable odors and noise.

I also assume that during fence construction no damage will be done to the cedar tree in the corner of my yard which blocks the motion light that frequently comes on across the alley in the evenings and otherwise shines into my family room.

If any of this information is incorrect, please inform me as soon as possible. I appreciate the Board's attention to these concerns and wish my neighbor the best with his new fence.

Regards,

Joanne Nelson